

1
2
3
4
5
6
7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 ELIZABETH DE COSTER, *et al.*, on behalf of
11 themselves and all other similarly situated,

12 Plaintiffs,

13 v.

14 AMAZON.COM, INC., a Delaware corporation,

15 Defendant.

No. 2:21-cv-00693-JHC

STIPULATED MOTION AND
ORDER REGARDING EXPERT
DEPOSITION(S) AND DAUBERT
MOTION(S)

16 **STIPULATED MOTION**

17 Pursuant to Local Civil Rules 7(d)(1) and 10(g), the Parties in the above-captioned
18 action, by and through their respective counsel, agree to the following stipulation regarding
19 expert depositions in connection with the Parties' class certification briefing and any motion to
20 exclude expert testimony for failure to satisfy *Daubert v. Merrell Dow Pharmaceuticals, Inc.* and
21 its progeny in connection with the Parties' class certification briefing ("*Daubert* motions").

22 On June 25, 2024, the Court entered an Order re: Discovery Coordination, Class
23 Certification Briefing Schedule & Rule 30(b)(6) Deposition. Dkt. 160. This Order set forth a
24 briefing schedule for class certification in the above-captioned case, *id.*, but it did not set
25 deadlines for expert depositions in connection with the Parties' class certification briefing or
Daubert motions in connection with the Parties' class certification briefing.

1 On July 31, 2024, the Court entered an Order re: Sealing of Class Certification Briefing.
 2 Dkt. 171. This Order set forth a procedure for filing and sealing in connection with the class
 3 certification briefing. *Id.*

4 Accordingly, the Parties have met and conferred, and stipulate and agree as follows:

5 1. The schedule for *Daubert* briefing will be as follows:

Filing	Date
Amazon's Response in Opposition to Motion to Certify Class; Amazon's <i>Daubert</i> Motion	November 25, 2024
Plaintiffs' Reply in Support of Motion to Certify Class; Plaintiffs' Response in Opposition to Amazon's <i>Daubert</i> Motion; Plaintiffs' <i>Daubert</i> Motion(s)	January 24, 2025
Amazon's Reply in Support of Amazon's <i>Daubert</i> Motion; Amazon's Response(s) in Opposition to Plaintiffs' <i>Daubert</i> Motion(s)	March 3, 2025
Plaintiffs' Reply(ies) in Support of Plaintiffs' <i>Daubert</i> Motion(s)	March 31, 2025

17
 18 2. The date for the hearing on Plaintiffs' class certification motion is "To be set by
 19 Court after briefing completed." Dkt. 160. Once class certification and *Daubert* briefing is
 20 complete, the Parties will meet and confer concerning the proposed scope and structure of the
 21 hearing and make a joint submission setting forth the Parties' proposal(s) within three weeks
 22 after completion of all briefing, including the submission of Plaintiffs' Reply Brief(s) in Support
 23 of any *Daubert* Motion(s) by Plaintiffs.

24 3. To ensure that materials designated as Confidential or Highly Confidential-
 25 Attorneys' Eyes Only by either a Party or Non-Party are treated appropriately and under the
 26 applicable protective order and to reduce burdens on the Court, the Parties, and Non-Parties, the
 27

1 Parties and their respective counsel hereby stipulate and agree to the following procedure for
 2 filing and sealing in connection with *Daubert* motions, subject to the Court's approval:

3 a. Pursuant to LCR 5(g)(2), each Party will provisionally file under seal its
 4 *Daubert* briefing (including any opening, response, and reply briefs), exhibits, and all
 5 other evidence and declarations on which that Party relies (collectively, "*Daubert*
 6 Papers") that contain material designated Confidential or Highly Confidential-Attorneys'
 7 Eyes Only by any Party or Non-Party.

8 b. Within five weeks after the filing of the Parties' reply brief(s), pursuant to
 9 LCR 5(g), the Parties, and any necessary Non-Parties, will meet and confer and, as
 10 appropriate, file (1) public versions of their *Daubert* Papers and (2) corresponding
 11 motion(s) to seal pursuant to LCR 5(g)(3). The Party or Non-Party seeking to maintain
 12 material under seal (or under redaction) shall be the movant for purposes of any such
 13 motion(s) to seal associated with the Parties' class certification briefing. The deadline for
 14 filing any such public versions of the Parties' *Daubert* Papers and corresponding
 15 motion(s) to seal shall be May 5, 2025.

16 4. The Parties agree and stipulate that the following word limits will apply to
 17 *Daubert* briefs in the above-captioned cases:

Brief	Word Limit (LCR 7(e)(5))
<i>Daubert</i> Motion(s)	4,200
Opposition to <i>Daubert</i> Motion(s)	4,200
Reply in Support of <i>Daubert</i> Motion(s)	2,100

23 5. The Parties may depose the other Party's expert(s) in connection with the Parties'
 24 class certification briefings, with the Parties to work together in good faith to establish an
 25 appropriate and agreeable deposition date in that timeframe. Expert witnesses who submit one
 26 report in this case may be questioned for up to seven (7) hours. Expert witnesses who submit
 27 two reports may be questioned for up to ten-and-a-half (10.5) hours, assuming the deposition

1 takes place following their second report. In the event that an expert is deposed for seven (7)
2 hours following the expert's first report, the Parties shall meet and confer to discuss the
3 parameters for any second deposition following any second report.

4 6. In its Reply Brief in support of its *Daubert* motion, Amazon may, as permitted by
5 the Rules, address any new material or analyses submitted in Plaintiffs' Reply Brief in support of
6 class certification and/or Reply Expert Report(s), as well as the deposition testimony of
7 Plaintiffs' expert. Plaintiffs reserve the right to file a surreply as set forth in Local Rule 7(g) to
8 the extent Amazon's Reply Brief in support of its *Daubert* motion exceeds what is permitted by
9 the Federal Rules.

10 7. Within 21 days of Plaintiffs filing their motions for class certification in *Frame-*
11 *Wilson v. Amazon* (20-cv-424) and *Brown v. Amazon* (22-cv-965), the Parties will meet and
12 confer to discuss the timing of expert depositions in those cases, and deadlines for the filing of
13 *Daubert* motions. Within 30 days of Plaintiffs filing their motions for class certification in
14 *Frame-Wilson* and *Brown*, the Parties will jointly submit a proposed schedule for *Daubert*
15 briefing in each of those cases.

IT IS SO STIPULATED THROUGH COUNSEL OF RECORD.

DATED October 16, 2024. Respectfully submitted,

HAGENS BERMAN SOBOL SHAPIRO LLP

By /s/ Steve W. Berman
Steve W. Berman (WSBA No. 12536)
Barbara A. Mahoney (WSBA No. 31845)
1301 Second Avenue, Suite 2000
Seattle, WA 98101
Telephone: (206) 623-7292
Facsimile: (206) 623-0594
E-mail: steve@hbsslaw.com
E-mail: barbaram@hbsslaw.com

1 Anne F. Johnson (*pro hac vice*)
2 394 Dean Street, Suite 24
3 Brooklyn, NY 11238
4 Telephone: (718) 916-3520
E-mail: annej@hbsslaw.com
KELLER POSTMAN LLC

5 Zina G. Bash (*pro hac vice*)
6 111 Congress Avenue, Suite 500
7 Austin, TX, 78701
Telephone: (512) 690-0990
E-mail: zina.bash@kellerpostman.com

8 Jessica Beringer (*pro hac vice*)
9 Shane Kelly (*pro hac vice*)
10 Alex Dravillas (*pro hac vice*)
11 150 North Riverside Plaza, Suite 4100
Chicago, Illinois 60606
Telephone: (312) 741-5220
E-mail: Jessica.Beringer@kellerpostman.com
E-mail: shane.kelly@kellerpostman.com
E-mail: ajd@kellerpostman.com

14 *Interim Co-Lead Counsel for Plaintiffs and the*
15 *proposed Class*

16 Roseann R. Romano (*pro hac vice*)
17 1101 Connecticut Avenue, N.W., Suite 1100
Washington, D.C., 20036
Telephone: 202-918-1123
E-mail: Roseann.Romano@kellerpostman.com

20 QUINN EMANUEL URQUHART &
21 SULLIVAN, LLP

22 Alicia Cobb, WSBA # 48685
1109 First Avenue, Suite 210
23 Seattle, WA 98101
Telephone: (206) 905-7000
24 Email: aliciacobb@quinnmanuel.com

1 Steig D. Olson (*pro hac vice*)
2 David D. LeRay (*pro hac vice*)
3 Nic V. Siebert (*pro hac vice*)
4 Maxwell P. Deabler-Meadows (*pro hac vice*)
5 51 Madison Avenue, 22nd Floor
6 New York, NY 10010
7 Telephone: (212) 849-7000
8 Email: steigolson@quinnemanuel.com
9 Email: davidleray@quinnemanuel.com
10 Email: nicolassiebert@quinnemanuel.com
11 Email: maxmeadows@quinnemanuel.com

12 Adam B. Wolfson (*pro hac vice*)
13 865 South Figueroa Street, 10th Floor
14 Los Angeles, CA 90017-2543
15 Telephone: (213) 443-3000
16 Email: adamwolfson@quinnemanuel.com

17 *Interim Executive Committee for Plaintiffs and the*
18 *proposed Class*

19 DAVIS WRIGHT TREMAINE LLP

20 By: /s/ John A. Goldmark
21 John A. Goldmark, WSBA #40980
22 MaryAnn Almeida, WSBA #49086
23 920 Fifth Avenue, Suite 3300
24 Seattle, WA 98104-1610
25 Telephone: (206) 622-3150
26 Email: JohnGoldmark@dwt.com
27 Email: MaryAnnAlmeida@dwt.com
PAUL, WEISS, RIFKIND, WHARTON &
GARRISON LLP

28 Karen L. Dunn (*pro hac vice*)
29 William A. Isaacson (*pro hac vice*)
30 Amy J. Mauser (*pro hac vice*)
31 Kyle Smith (*pro hac vice*)
32 2001 K Street, NW
33 Washington, D.C. 20006-1047
34 Telephone: (202) 223-7300
35 Email: kdunn@paulweiss.com
36 Email: wisaacson@paulweiss.com
37 Email: amauser@paulweiss.com
38 Email: ksmith@paulweiss.com

Meredith Dearborn (*pro hac vice*)
535 Mission Street, 24th Floor
San Francisco, CA 94105
Telephone: 628-432-5100
Email: mdearborn@paulweiss.com

Yotam Barkai (*pro hac vice*)
1285 Avenue of the Americas
New York, NY 10019-6064
Telephone: (212) 373-3000
Email: ybarkai@paulweiss.com

Attorneys for Defendant Amazon.com, Inc.

**STIPULATED MOTION & ORDER RE:
EXPERT DEPOSITION(S) & DAUBERT MOTION(S)
(No. 2:21-cv-00693-JHC) - 7**

1 **ORDER**
2

3 Pursuant to the Parties' above stipulation, IT IS SO ORDERED.
4

5 Dated this 17th day of October, 2024.
6

7 
8 John H. Chun
9 UNITED STATES DISTRICT JUDGE
10